

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1104

Introduced by Lynch, 13

Read first time January 10, 2000

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to deferred compensation; to amend section
2 84-1504, Reissue Revised Statutes of Nebraska, and
3 section 48-1401, Revised Statutes Supplement, 1999; to
4 change provisions relating to state and county deferred
5 compensation plans; to redefine a term; to provide
6 duties; to harmonize provisions; and to repeal the
7 original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1401, Revised Statutes Supplement,
2 1999, is amended to read:

3 48-1401. (1) Any county, municipality, or other
4 political subdivision, instrumentality, or agency of the State of
5 Nebraska, except any agency subject to sections 84-1504 to 84-1506
6 or section 85-106, 85-320, or 85-606.01, may enter into an
7 agreement to defer a portion of any individual's compensation
8 derived from such county, municipality, or other political
9 subdivision, instrumentality, or agency to a future period in time
10 pursuant to section 457 of the Internal Revenue Code. Such
11 deferred compensation plan shall be voluntary and shall be
12 available to all regular employees and elected officials.

13 (2) The compensation to be deferred may never exceed the
14 total compensation to be received by the individual from the
15 employer or exceed the limits established by the Internal Revenue
16 Code for such a plan.

17 (3) All compensation deferred under the plan, all
18 property and rights purchased with the deferred compensation, and
19 all investment income attributable to the deferred compensation,
20 property, or rights shall be held in trust for the exclusive
21 benefit of participants and their beneficiaries by the county,
22 municipality, or other political subdivision, instrumentality, or
23 agency until such time as payments are made under the terms of the
24 deferred compensation plan.

25 (4) The county, municipality, or other political
26 subdivision, instrumentality, or agency shall designate its
27 treasurer or an equivalent official, including the State Treasurer,
28 to be the custodian of the funds and securities of the deferred

1 compensation plan.

2 (5) The county, municipality, or other political
3 subdivision, instrumentality, or agency may invest the compensation
4 to be deferred under an agreement in or with: (a) Annuities; (b)
5 mutual funds; (c) banks; (d) savings and loan associations; (e)
6 trust companies qualified to act as fiduciaries in this state; (f)
7 an organization established for the purpose of administering public
8 employee deferred compensation retirement plans and authorized to
9 do business in the State of Nebraska; or (g) investment advisers as
10 defined in the federal Investment Advisers Act of 1940.

11 (6) The deferred compensation program shall exist and
12 serve in addition to, and shall not be a part of, any existing
13 retirement or pension system provided for state, county, municipal,
14 or other political subdivision, instrumentality, or agency
15 employees, or any other benefit program.

16 (7) Any compensation deferred under such a deferred
17 compensation plan shall continue to be included as regular
18 compensation for the purpose of computing the retirement, pension,
19 or social security contributions made or benefits earned by any
20 employee.

21 (8) Any sum so deferred shall not be included in the
22 computation of any federal or state taxes withheld on behalf of any
23 such individual.

24 (9) The state, county, municipality, or other political
25 subdivision, instrumentality, or agency shall not be responsible
26 for any investment results entered into by the individual in the
27 deferred compensation agreement.

28 (10) All compensation deferred under the plan, all

1 property and rights purchased with the deferred compensation, and
2 all investment income attributable to the deferred compensation,
3 property, or rights shall not be subject to garnishment,
4 attachment, levy, the operation of bankruptcy or insolvency laws,
5 or any other process of law whatsoever and shall not be assignable.

6 (11) Nothing contained in this section shall in any way
7 limit, restrict, alter, amend, invalidate, or nullify any deferred
8 compensation plan previously instituted by any county,
9 municipality, or other political subdivision, instrumentality, or
10 agency of the State of Nebraska, and any such plan is hereby
11 authorized and approved.

12 (12)(a) If a county has not established a deferred
13 compensation plan pursuant to this section, each individual may
14 require that the county enter into an agreement with the individual
15 to defer a portion of such individual's compensation and place it
16 under the management and supervision of the state deferred
17 compensation plan created pursuant to sections 84-1504 to 84-1506.
18 If such an agreement is made, the county shall designate the State
19 Treasurer as custodian of such deferred compensation funds and such
20 deferred compensation funds shall become a part of the trust
21 administered by the Public Employees Retirement Board pursuant to
22 sections 84-1504 to 84-1506.

23 (b) If a county has entered into an agreement with an
24 individual to defer a portion of such individual's compensation to
25 be placed under the management and supervision of the state
26 deferred compensation plan pursuant to this subsection, such county
27 is not precluded from entering into an agreement pursuant to
28 subsection (5) of this section to participate in a separate

1 deferred compensation program. If a county enters into an
2 agreement pursuant to subsection (5) of this section after an
3 individual's compensation has been placed under the management and
4 supervision of the state deferred compensation plan, such
5 individual shall be afforded the opportunity to either join the
6 county deferred compensation plan and not continue to participate
7 in the state deferred compensation plan or to continue to
8 participate in the state deferred compensation plan and not
9 participate in the county deferred compensation plan. The county
10 deferred compensation plan may accept cash rollover contributions
11 from an individual who wishes to join the county deferred
12 compensation plan and not continue to participate in the state
13 deferred compensation plan if the contributions represent all of
14 the member's interest in an eligible deferred compensation plan
15 under section 457 of the Internal Revenue Code and qualified as a
16 tax-free rollover amount. Such contributions must be transferred
17 to the county deferred compensation program within sixty days after
18 the date of the distribution from the plan. The county shall adopt
19 provisions defining procedures for acceptance of rollovers which
20 are consistent with section 457 of the Internal Revenue Code.

21 (13) For purposes of this section, individual means (a)
22 any person designated by the county, municipality, or other
23 political subdivision, instrumentality, or agency of the State of
24 Nebraska, except any agency subject to sections 84-1504 to 84-1506
25 or section 85-106, 85-320, or 85-606.01, as a permanent part-time
26 or full-time employee of the county, municipality, or other
27 political subdivision, instrumentality, or agency and (b) a person
28 under contract providing services to the county, municipality, or

1 other political subdivision, instrumentality, or agency of the
2 State of Nebraska, except any agency subject to sections 84-1504 to
3 84-1506 or section 85-106, 85-320, or 85-606.01, and who has
4 entered into a contract with such county, municipality, political
5 subdivision, instrumentality, or agency to have compensation
6 deferred prior to August 28, 1999.

7 Sec. 2. Section 84-1504, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 84-1504. (1) The Public Employees Retirement Board, on
10 behalf of the state, may contract with any individual to defer a
11 portion of such individual's compensation pursuant to section 457
12 of the Internal Revenue Code.

13 (2) The compensation to be deferred shall not exceed the
14 total compensation to be received by the individual from the
15 employer or exceed the limits established by the Internal Revenue
16 Code for such a plan.

17 (3) The deferred compensation program shall serve in
18 addition to but not be a part of any existing retirement or pension
19 system provided for state or county employees or any other benefit
20 program.

21 (4) Any compensation deferred under such a deferred
22 compensation plan shall continue to be included as regular
23 compensation for the purpose of computing the retirement, pension,
24 or social security contributions made or benefits earned by any
25 employee.

26 (5) Any sum so deferred shall not be included in the
27 computation of any federal or state taxes withheld on behalf of any
28 such individual.

1 (6) The state, the board, the state investment officer,
2 the agency, or the county shall not be responsible for any
3 investment results entered into by the individual in the deferred
4 compensation agreement.

5 (7) Nothing in this section shall in any way limit,
6 restrict, alter, amend, invalidate, or nullify any deferred
7 compensation plan previously instituted by any instrumentality or
8 agency of the State of Nebraska, and any such plan is hereby
9 authorized and approved.

10 (8) For purposes of this section, individual means (a)
11 any state employee, whether employed on a permanent or temporary
12 basis, full-time or part-time, (b) a person under contract
13 providing services to the state who is not employed by the
14 University of Nebraska or any of the state colleges or community
15 colleges and who has entered into a contract with the state to have
16 compensation deferred prior to August 28, 1999, ~~and~~ (c) any county
17 employee designated as a permanent part-time or full-time employee
18 or elected official whose employer does not offer a deferred
19 compensation plan and who has entered into an agreement pursuant to
20 subsection (12) of section 48-1401, and (d) any county employee who
21 has entered into an agreement pursuant to subsection (12) of
22 section 48-1401 whose employer has subsequently offered a deferred
23 compensation plan and who has chosen to continue to participate in
24 the state deferred compensation plan and not participate in the
25 county deferred compensation plan.

26 Sec. 3. Original section 84-1504, Reissue Revised
27 Statutes of Nebraska, and section 48-1401, Revised Statutes
28 Supplement, 1999, are repealed.